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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,066	03/10/2000	Timothy P. Tully	1314.1058-0001	4462
21005	7590	06/04/2004	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			ART UNIT	PAPER NUMBER

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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0604

DATE MAILED:

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**Commissioner for Patents**

37 CFR 1.195. Affidavits or declarations after appeal.

Affidavits, declarations, or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented. Affidavits or declarations filed with or after the filing of a notice of appeal but before jurisdiction passes to the Board (see MPEP § 1210) will be considered for entry only if the appellant makes the necessary showing under 37 CFR 1.195 as to why they were not earlier presented. Authority from the Board is not necessary to consider such affidavits or declarations. Affidavits or declarations filed after a final rejection and prior to a notice of appeal are handled as provided in MPEP § 715.09, § 716, and § 716.01. Appellant is required to comply with provisions of 37 CFR 1.192(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 1.192(c) within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Applicant's Amended Appeal Brief submitted 17 October 2003 has corrected the SUMMARY OF THE INVENTION as previously required. However, Applicant has not provided a showing of good and sufficient reasons why the Declaration under 37 C.F.R.

1.132 was not earlier presented. Applicant states (page 2, lines 3-5) "reasons incorporated herein provide a showing of good and sufficient reasons as to why the Declaration had not been submitted earlier during the prosecution..". However, no such reasons are incorporated. Applicant merely states (page 13, lines 1-2) that the Declaration supports Appellants' arguments. Hence Applicant has not meet the requirements of 37 C.F.R. 1.195.

BJ Forman  
Primary Examiner  
Art Unit: 1634  
571-272-0741